

| Notice of Allowability | Application No. | Applicant(s) |
|------------------------|-----------------|----------------|
| | 09/831,656 | NIELSEN ET AL. |
| | Examiner | Art Unit |
| | Russell Kallis | 1638 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS**. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Appeal Brief filed 7/26/2004.
2. The allowed claim(s) is/are 24,25,27,30,32-34,36 (renumbered 2,1,3,4,6,5,7,8).
3. The drawings filed on 11 May 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date 10/25/04.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Jason Garbell on 10/14/2004.

The application has been amended as follows:

Claims 23, 28-29, 31, 35 and 37-42 are cancelled. Claims 24-25, 27, 30, 32-34 and 36 are pending.

In the claims:

In Claim 24, line 1, delete "23" and insert --25--.

--Claim 25 (Currently amended). [The plant cell of Claim 23] A transgenic cereal plant cell comprising a nucleotide sequence encoding a maltogenic alpha-amylase, wherein the maltogenic alpha-amylase has the amino acid sequence of amino acids 34-719 of SEQ ID NO: 2.--

In Claim 27, line 1, delete "23" and insert --25--.

In Claim 30, line 2, delete "23" and insert --25--.

In Claim 30, line 3, after "expressing" insert --the--.

In Claim 32, line 1, delete "31" and insert --33--.

--Claim 33 (Currently amended). [The plant according to claim 31] A transgenic cereal plant comprising a nucleotide sequence encoding a maltogenic alpha-amylase, wherein the

maltogenic amylase is a maltogenic alpha-amylase having the amino acid sequence of amino acids 34-719 of SEQ ID NO: 2.--

In Claim 34, line 1, delete "31" and insert --33--.

In Claim 34, line 2, after "includes" insert --the--.

--Claim 36 (Currently amended). [The seed of claim 34,] A seed of the cereal plant of
claim 33, wherein the seed includes a maltogenic alpha-amylase in an amount effective to delay
staling of bread baked from the seed; and [wherein] the maltogenic alpha-amylase [is a
maltogenic alpha-amylase having] has the amino acid sequence of amino acids 34-719 of SEQ
ID NO: 2.--

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kallis whose telephone number is (571) 272-0798. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (571) 272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Russell Kallis Ph.D.
October 25, 2004

DAVID T. FOX
PRIMARY EXAMINER
GROUP 100-1638

